

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OLEG CASSINI, INC. ,

Plaintiff,

-against-

SERTA, INC., NATIONAL BEDDING COMPANY,
LLC, J.C. PENNEY COMPANY, INC., J.C. PENNEY
CORPORATION, INC. and JOHN DOES (1-10),

Defendants.

x

Case No. 1:11-cv-08751-PAE

**NOTICE OF MOTION TO
DISMISS ON BEHALF OF
DEFENDANTS SERTA, INC.
AND J.C. PENNEY, INC.**

x

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law, the Declaration of Nicole M. Murray, Esq sworn to on January 5, 2011 and the Exhibits annexed thereto, all pleadings and proceedings herein, and pursuant to Federal Rule of Civil Procedure 12(b) and this Court's inherent powers, Defendants Serta, Inc., National Bedding Company, LLC, J.C. Penney Company, Inc. and J.C. Penney Corporation, Inc., by their attorneys, Leader & Berkon LLP, move this Court, before the Honorable Paul A. Engelmayer, United States District Judge, United States District Court for the Southern District of New York, Daniel Patrick Moynihan, United States Courthouse, 500 Pearl Street, New York, NY 10007-1312, for an Order Dismissing Plaintiff's Complaint pursuant to the first-to-file rule and Federal Rule of Civil Procedure 12(b), and, in the alternative, if the Complaint were to survive dismissal, for an order transferring this action to the co-pending action in the United States District Court for the Northern District of Illinois.

PLEASE TAKE FURTHER NOTICE that pursuant to Local Civil Rule 6.1, opposition papers, if any, shall be served on the undersigned within fourteen (14) days from service of this motion.

Dated: New York, New York
January 5, 2012

LEADER & BERKON LLP

By:



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